

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

OSCAR SMITH,

Plaintiff,

v.

**BILL LEE, in his official capacity as
Governor of the State of Tennessee,**

**HERBERT SLATERY, in his official
capacity as the Attorney General of the
State of Tennessee,**

**LISA HELTON, in her official capacity
as the Interim Commissioner of the
Tennessee Department of Correction,**

**TONY MAYS, in his official capacity as
Warden, Riverbend Maximum Security
Institution,**

Defendants.

CAPITAL CASE

**Case No. 3:22-cv-00280
Judge Aleta A. Trauger**

EXECUTION SCHEDULED:

April 21, 2022

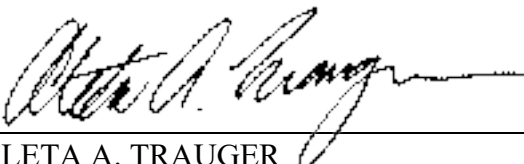
ORDER

Plaintiff Oscar Smith, who is scheduled to be executed by the State of Tennessee on April 21, 2022, has filed a Complaint for Injunctive Relief, requesting a preliminary and permanent injunction barring the defendants from executing him “until such time as the State of Tennessee provides a constitutionally adequate hearing on the merits of his claim of actual innocence and entitlement to relief under the DNA Act (Tenn. Code Ann. § 40-30-301 *et seq.*) and/or Tennessee’s Motion to Reopen statute (Tenn. Code Ann. § 40-30-117).” (Doc. No. 1, at 11–12.) Now before the court is Smith’s Emergency Motion for Temporary Restraining Order (“TRO Motion”) (Doc. No. 3), in which he asks this court to restrain the defendants from executing him on April 21, 2022,

“to afford Mr. Smith time to litigate his Section 1983 lawsuit.” (*Id.* at 1.) The defendants received notice of the Complaint and TRO Motion and, at the court’s directive, filed a Response in Opposition to the TRO Motion (Doc. No. 11),¹ as a result of which the court construes the TRO Motion as a motion for a preliminary injunction under Rule 65(a) of the Federal Rules of Civil Procedure. The plaintiff filed a Reply. (Doc. No. 13.)

For the reasons set forth in the accompanying Memorandum, the plaintiff’s motion (Doc. No. 3) is hereby **DENIED**.

It is so **ORDERED**.



ALETA A. TRAUGER
United States District Judge

¹ The defendants note that they make a limited appearance in this case solely to comply with the court’s order, but they are not yet subject to the court’s jurisdiction, having not received proper service under Rule 4 of the Federal Rules of Civil Procedure. (Doc. No. 11, at 2 n.2.)